

रजिस्टर्ड नं० एस० एम० 14



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 31 दिसम्बर, 1977/10 पौष, 1899

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATIONS

Simla-171004, the 23rd December, 1977

No. 1-61/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Urban Estates (Development

1214 असाधारण राजपत्र, हिमाचल प्रदेश, 31 दिसम्बर, 1977/10 पौष, 1899

and Regulation) (Amendment) Bill, 1977 (Bill No. 22 of 1977) after having been introduced in the Assembly on the 23rd December, 1977 is hereby published in the Gazette.

V. P. BHATNAGAR,
Secretary.

Bill No. 22 of 1977.

THE HIMACHAL PRADESH URBAN ESTATES (DEVELOPMENT AND REGULATION) (AMENDMENT) BILL, 1977

(As INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**A
BILL**

to amend the Himachal Pradesh Urban Estates (Development and Regulation) Act, 1969 (Act No. 26 of 1969).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Urban Estates (Development and Regulation) (Amendment) Act, 1977.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of the State of Himachal Pradesh.

(3) It shall be deemed to have come into force on the 25th day of January, 1971.

26 of 1969.
3 of 1911.
19 of 1968.

2. In sub-section (1) of section 8 of the Himachal Pradesh Urban Estates (Development and Regulation) Act, 1969, for the words and figures, "the Punjab Municipal Act, 1911" the words and figures, "the Himachal Pradesh Municipal Act, 1968" shall be substituted.

Amendment
of section
8.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Urban Estates (Development and Regulation) Bill, 1969 was passed by the Himachal Pradesh Legislative Assembly and was reserved for the consideration of the President. The President of India accorded the assent to the aforesaid Bill on the assurance of the State Government that the reference to the Punjab Municipal Act, 1911 in the said Bill shall be substituted with the reference to the Himachal Pradesh Municipal Act, 1968, which had come into force by that time. The necessary amendments were made in the aforesaid Act through the Himachal Pradesh Adaptation of Laws (State and Concurrent Subjects) Order, 1973, published in the Rajpatra, Himachal Pradesh (Extraordinary) dated 20th January, 1973. But the reference to the Punjab Municipal Act, 1911 in sub-section (1) of section 8 remained unaltered. Now this alteration can be made by way of amending legislation. This Bill seeks to achieve this object.

KISHORI LAL,
Minister-in-charge.

SIMLA:

The 23rd December, 1977.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Simla-171004, the 23rd December, 1977

No. 1-58/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Municipal (Amendment) Bill, 1977 (Bill No. 23 of 1977), after having been introduced in the Assembly on the 23rd December, 1977, is hereby published in the Gazette,

**THE HIMACHAL PRADESH MUNICIPAL (AMENDMENT)
BILL, 1977**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Municipal Act, 1968 (Act No. 19 of 1968).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Municipal (Amendment) Act, 1977.

Short title
and com-
mencement.

(2) It shall come into force at once.

19 of 1968 2. After clause (7) of section 2 of the Himachal Pradesh Municipal Act, 1968 (hereinafter referred to as the principal Act) the following clause (7 A) shall be inserted, namely:—

Amendment
of section 2.

“(7A) “co-opted member” means a member co-opted under section 11-A and the word “co-option” with all its grammatical variations shall be construed accordingly;”.

3. For section 11 of the principal Act, the following section shall be substituted, namely:—

Substitution
of section
11.

“(1) subject to the provisions of section 16, a committee for each municipality shall consist of the following members, namely:—

(a) Such number of elected members as the State Government may prescribe in this behalf;

(b) co-opted members under section 11-A, if any; and

(c) associate members namely, every member of the Himachal Pradesh Legislative Assembly representing the constituency in which the municipality or any part thereof is situate:

Provided that an associate member shall not be entitled to vote but shall, subject to the other provisions of the Act, have the right to speak in and otherwise take part in the proceedings of any meeting of the committee or its sub-committee of which he may be a member.

Explanations I.—If the constituency of a member of the Himachal Pradesh Legislative Assembly comprises more than one municipality he shall be an associate member in respect of the committees of each such municipality.

II. If any municipality falls in more than one constituency, the members representing each such constituency shall be the associate members of the committee of such municipality.

III. A person who is elected as member of a committee shall not be considered to be an associate member if he is a member of the Himachal Pradesh Legislative Assembly at the time of his election or becomes such member at any time thereafter and such person shall have all the rights and be subject to all the liabilities of an elected member.

(2) The State Government may nominate to a committee such number of officials not exceeding eight, to act as advisers, as it may think fit. Such advisers shall neither be deemed to be members of the committee nor shall they have right to vote in any capacity whatsoever but shall be entitled to participate in all proceedings of the committee in an advisory capacity.”

Addition of
new sections
11-A &
11-B.

4. In the principal Act, after section 11, the following sections 11-A and 11-B along with their headings shall be added, namely:—

“11-A. Co-option from amongst women.—If no woman has been elected to a committee, the elected members of the committee shall co-opt in accordance with the provisions of section 11-B, two women, who are otherwise qualified to be elected as members of such committee, and if one woman has been elected, the elected members shall co-opt one such woman.

11-B. Manner of co-option.—Co-option under section 11-A in the case of a newly constituted committee shall be made in a meeting of the elected members held for the purpose of administering oath of allegiance to them and in case of any other committee within a period of thirty days from the date of commencement of the Himachal Pradesh Municipal (Amendment), Act, 1977:

Provided that whenever a vacancy occurs by death, resignation, removal or otherwise of a co-opted member, the co-option shall be made within a period of thirty days from the occurrence of the vacancy.”

Insertion of
sub-sections
(2-A) and
(2-B). to
section 12.

5. After sub-section (2) of section 12 of the principal Act, the following sub-sections (2-A) and (2-B) shall be inserted, namely:—

“(2-A) The term of office of an associate member shall be co-terminus with his term as member of the Legislative Assembly.

(2-B) The term of office of a co-opted member shall be co-terminus with the term of elected member fixed under sub-section (2).”

Substitution
of section
233.

6. For section 233 of the principal Act, the following section shall be substituted, namely:—

“233. Whoever disobeys any lawful direction or prohibition given by the committee by public notice under this Act or any written notice lawfully issued by it thereunder, or fails to comply with the

conditions subject to which any permission was given by the committee to him under those powers, shall, if the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to five hundred rupees but which shall not be less than fifty rupees, and, in the case of a continuing breach, with a further fine which may extend to twenty five rupees for every day after the first during which the breach continues:

Provided that when the notice fixes a time within which a certain act is to be done and no time is specified in this Act, it shall rest with the magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.”.

STATEMENT OF OBJECTS AND REASONS

As per existing provisions of the Himachal Pradesh Municipal Act, 1968 (Act No. 19 of 1968) there is no provision under which the members of the Legislative Assembly can be associated with the affairs of the Municipality. In the interest of proper functioning of these local bodies, it has been felt that the members of the State Legislature should also participate in the affairs of Municipal Committees falling within their respective constituencies. It is, therefore, proposed that the members of Legislative Assembly should be associated as members in such Municipal Committees. Besides, the Act does not provide for the proper representation to the women. The Bill provides for such co-option. In case no woman is elected then two women members are to be co-opted and if one woman is elected then one woman member shall be co-opted.

Moreover, the existing provisions regarding penalty for disobedience of orders of committee is inadequate to deal with the offences and it is considered that the punishment should be deterrent. In view of this, it is proposed that the Himachal Pradesh Municipal Act, 1968, be further amended to include suitable provision by replacing the existing section 233 of the aforesaid Act so as to provide with minimum fine of Rs. 50/- which may extend to Rs. 500/-, and in the case of a continuing breach, with a further fine which may extend to Rs. 25/- for every day.

This Bill seeks to achieve the aforesaid objects.

SIMLA:
The 23rd December, 1977.

DAULAT RAM CHAUHAN,
Minister-in-Charge.

FINANCIAL MEMORANDUM

No extra expenditure will be borne by the State Government for implementing the provisions of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 11 of the principal Act likely to be substituted by clause 3 of the Bill empowers the State Government to fix the number of elected members of a Municipal Committee. This delegation is essential and normal in character.

Simla-171004, the 23rd December, 1977

No. 1-57/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly 1973, the Himachal Pradesh Passengers and Goods Taxation (Amendment) Bill, 1977 (Bill No. 25 of 1977) after having been introduced in the Assembly on the 23rd December, 1977 is hereby published in the Gazette.

Bill No. 25 of 1977.

**THE HIMACHAL PRADESH PASSENGERS AND GOODS
TAXATION (AMENDMENT) BILL, 1977**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (Act No. 15 of 1955).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India, as follows:—

1. (1) This Act may be called the Himachal Pradesh Passengers and Goods Taxation (Amendment) Act, 1977.

Short title
and com-
mencement.

(2) It shall come into force at once.

15 of 1955 2. For clause (f) of section 2 of the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (hereinafter called the principal Act) the following clause (f) of section 2 of the said Act shall be substituted, namely:—

Amendment
of section 2.

“f) “owner” means the owner of a motor vehicle, used for carrying passengers or transporting goods in or through the territory of the State of Himachal Pradesh, and includes,

(a) the de-facto and de-jure owners;

(b) any person for the time being incharge of such vehicle;

(c) any person responsible for the management of the place of business of such owners;

(d) the Government or Corporation constituted under the Road Transport Corporation Act, 1950;”

64 of 1950

3. After section 3 of the principal Act, the following section 3-A, along with its heading, shall be added, namely:—

Addition of
section 3-A.

“3-A. *Levy of surcharge.*—Notwithstanding anything contained in sub-section (1) of section 3 of the Act, from and after the commencement of this section, there shall further be levied and paid to the State Government a surcharge on the tax payable by every passenger carried by a stage/contract carriage for each journey at a rate of 20% subject to a minimum of 5 paise in any one case, the amount of surcharge being calculated to the nearest multiple of 5 paise by ignoring 2 paise or less and counting more than 2 paise as 5 paise, for the purpose of insurance of a passenger under the scheme to be prepared and notified by the State Government in the Official Gazette.”

4. In section 4 (excepting first proviso) and sections 5 (1), 6, 9, 12, 14-B, 15 and 21 of the principal Act for the word “tax”, wherever it occurs, the words “tax and surcharge” shall be substituted.

Amendment
of sections
4, 5, 6, 9,
12, 14-B, 15
and 21.

Amendment
of section 22.

5. In section 22 of the principal Act, the following amendments shall be made, namely:—

(a) for the word “tax”, wherever it occurs, the words “tax and surcharge” shall be substituted; and

(b) for clause (a) of sub-section (2) the following clause (a) of sub-section (2) shall be substituted:—

“(a) prescribing the manner in which and the intervals at which tax and surcharge shall be paid under sections 3, 3-A and 4;”.

Repeal and
savings.

6. The Himachal Pradesh Passengers and Goods Taxation (Amendment) Ordinance, 1977 is hereby repealed.

Notwithstanding such repeal, anything done, any notification issued or any action taken under the aforesaid Ordinance, shall be deemed to have been done, issued or taken under the corresponding provisions of this Act, as if this Act was in force on the day on which such thing was done, notification issued or action taken.

STATEMENT OF OBJECTS AND REASONS

There have been reports of numerous bus accidents specially in hilly areas. Under the Motor Vehicles Act, 1939, claims tribunals have been constituted for awarding compensation to the claimants. But this remedy is not adequate and expeditious because the adjudication of compensation takes a long time. Therefore, in order to provide speedy relief to the passengers travelling by buses, it is considered necessary that a nominal amount be levied on passengers as surcharge towards insurance so that in case of death/injury of a passenger caused by such accidents the passengers may be entitled to compensation according to the scheme drawn up by the State Government. Since the Legislative Assembly was not in session and the Governor of Himachal Pradesh, having been satisfied that the circumstances existed which rendered it necessary for him to take immediate action, promulgated Ordinance No. 6 of 1977 on the 14th November, 1977. This Ordinance is now required to be replaced by a regular enactment.

2. At present the definition of "owner" laid down in the Himachal Pradesh Passengers and Goods Taxation Act, 1955, is creating confusion in the minds of the field staff of the Excise and Taxation Department of the Government of Himachal Pradesh as well as the affected public. The Punjab and Haryana High Court in the case of M/s Hindustan Machine Tools Ltd., Pinjore Vs. State of Haryana has held that it is not the class of vehicles but the actual use to which a vehicle is put at a particular time which determines the liability as a vehicle of that type under the enactment. So as to remove this ambiguity and to make it more clear and comprehensive it has been decided to substitute clause (f) of section 2 of the said Act defining the "owner" with a new definition so that the legal lacuna is met out.

3. Since the surcharge is proposed to be levied on the passenger tax, sections 4 & 5 are required to be amended only in respect of the provisions pertaining to the passenger tax, contained therein. As such no amendment is required to be made in first proviso of section 4 and sub-section (2) of section 5, as these provisions relate to the freight chargeable for the transportation of goods. Moreover, consequent upon the insertion of section 3-A, in the principal Act, amendments are also required to be made in sections 14-B and 15 of the said Act.

4. This Bill seeks to replace the aforesaid Ordinance with modifications.

JAGDEV CHAND,
Minister-in-Charge.

SIMLA:
The December, 1977.

FINANCIAL MEMORANDUM

The levy of surcharge under **clause 3** of the Bill on the passenger tax is likely to increase State Revenue by 25 lacs per annum which will increase/decrease with the bus fare, subject to liability of the Government to pay *ex-gratia* grants to the victims of the bus accidents.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill, empowers the State Government to prepare the scheme for the purpose of insurance of a passenger, by a notification in the Official Gazette.

Clause 5 of the Bill proposes to amend section 22 of the Act to empower the State Government to prescribe *inter alia* the manner and the intervals at which the surcharge shall be paid. This delegation is necessary and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[File No. EXN. D(6)-1/77]

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Passengers and Goods Taxation (Amendment) Bill, 1977, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the said Bill in the Legislative Assembly of Himachal Pradesh.

**STATEMENT EXPLAINING THE CIRCUMSTANCES WHICH
NECESSITATED MODIFICATIONS IN THE ORDINANCE**

In the light of the decision of the Punjab and Haryana High Court in the case of M/S Hindustan Machine Tools Ltd., Pinjore Vs. State of Haryana, it has also been felt expedient to substitute the definition of the expression "owner" for the purposes of the Himachal Pradesh Passengers and Goods Taxation Act, 1955. Since the surcharge is proposed to be levied on the passenger tax, sections 4 and 5 are required to be amended only in respect of the provisions pertaining to the passenger tax, contained therein. As such no amendment is required to be made in the first proviso of section 4 and sub-section (2) of section 5, as these provisions relate to the freight chargeable for the transportation of goods. Moreover, consequent upon the insertion of section 3-A, in the principal Act, amendments are also required to be made in sections 14-B and 15 of the said Act. This has necessitated the modifications in the Ordinance.

Simla-171004, the 23rd December, 1977

No. 1-62/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Urban Rent Control (Amendment) Bill, 1977 (Bill No. 26 of 1977), after having been introduced in the Assembly on the 23rd December, 1977, is hereby published in the Gazette.

Bill No. 26 of 1977.

**THE HIMACHAL PRADESH URBAN RENT CONTROL
(AMENDMENT) BILL, 1977**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

**A
BILL**

*further to amend the Himachal Pradesh Urban Rent Control Act, 1971
(Act No. 23 of 1971).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Urban Rent Control (Amendment) Act, 1977.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. After section 14 of the Himachal Pradesh Urban Rent Control Act, 1971 (hereinafter called the principal Act) the following new sections 14-A and 14-B shall be inserted, namely:—

Insertion of
new sections
14-A and
14-B.

“14-A. *Right to recover immediate possession of premises to accrue to certain persons.*—(1) Where a landlord who, being a person in occupation of any residential premises allotted to him by the Central Government, the State Government or any local authority is required, by, or in pursuance of, any general or special order made by the Central or State Government or local authority, as the case may be, to vacate such residential accommodation, or in default, to incur certain obligations, on the ground that he owns, within the urban area a residential accommodation either in his own name or in the name of his wife or dependent child, there shall accrue, on and from the date of such order, to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary, a right to recover immediately possession of any premises let out by him:

Provided that nothing in this section shall be construed as conferring a right on landlord owning, within the urban area, two or more dwelling houses, whether in his own name or in the name of his wife or dependent child, to recover the possession of more than one dwelling house and it shall be lawful for such landlord to indicate the dwelling house, possession of which he intends to recover.

(2) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, custom or usage to the contrary, where the landlord exercises the right of recovery conferred on him by sub-section (1) no compensation shall be payable by him to the tenant or any person claiming through or under him and no claim for such compensation shall be entertained by any court, tribunal or other authority:

Provided that where the landlord had received,—

- (a) any rent in advance from the tenant, he shall, within a period of ninety days from the date of recovery of the possession of premises by him, refund to the tenant such amount as represents the rent payable for the un-expired portion of the contract, agreement or lease;
- (b) any other payment, he shall, within the period aforesaid, refund to the tenant a sum which shall bear the same proportion to the total amount so received, as the un-expired portion of the contract or agreement, or lease bears to the total period of contract or agreement or lease :

Provided further, that if any default is made in making any refund as aforesaid, the landlord shall be liable to pay simple interest at the rate of six per cent per annum.

14-B. *Special procedure for the disposal of applications for eviction on the ground of bonafide requirement under section 14-B.*—(1) Every application by a landlord for the recovery of possession of any premises on the ground specified in sub-section (1) of section 14-A shall be dealt with in accordance with the procedure specified in this section.

(2) The Controller shall issue summons, in relation to every application referred to in sub-section (1), in the form specified in Schedule II.

(3) (a) The Controller shall, in addition to, and simultaneously with, the issue of summons for service on the tenant, also direct the summons to be served by registered post, acknowledgment due, addressed to the tenant or his agent empowered to accept the service at the place where the tenant or his agent actually and voluntarily resides or carries on business or personally works for gain and may, if the circumstances of the case so require, also direct the publication of the summons in a newspaper circulating in the locality in which the tenant is last known to have resided or carried on business or personally worked for gain.

(b) When an acknowledgment purporting to be signed by the tenant or his agent is received by the Controller or the registered article containing the summons is received back with an endorsement purporting to have been made by a postal employee to the effect that the tenant or his agent had refused to take delivery of the registered article, the Controller may declare that there has been a valid service of summons.

(4) The tenant on whom the summons is duly served (whether in the ordinary way or by registered post) in the form specified in Schedule II shall not contest the prayer for eviction from the premises unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the Controller as hereinafter provided; and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the grounds aforesaid.

(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in sub-section (1) of section 14-A.

(6) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing of the application as early as practicable.

(7) Notwithstanding anything contained in section 14, the Controller shall, while holding an enquiry in a proceeding, follow the practice and procedure of a Court of Small Causes, including the recording of evidence.

(8) No appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the Controller in accordance with the procedure specified in this section :

Provided that the High Court may, for the purposes of satisfying itself that an order made by the Controller under this section is according to law, call for the records of the case and pass such orders in respect thereto as it thinks fit.

(9) Where no application has been made to the High Court, on revision the Controller may exercise the powers of review in accordance with the provisions of Order XLVII of the First Schedule to the Code of Civil Procedure, 1908.

(10) Save as otherwise provided in this section, the procedure for the disposal of an application for eviction on the ground specified in sub-section (1) of section 14-A shall be the same as the procedure for the disposal of application by the Controller.

3. In clause (b) of sub-section (1) of section 21 of the principal Act the words, "Any person aggrieved by an order passed by the Controller" shall be substituted with the words, "Save as otherwise provided in this Act, any person aggrieved by an order passed by the Controller".

Amendment
of section
21.

4. In the Schedule to the principal Act, the words "THE SCHEDULE" shall be substituted with the words and figure "SCHEDULE-I" and after the existing Schedule so amended the following Schedule-II, shall be inserted namely:—

Insertion of
Schedule-II.

"SCHEDULE-II

[See section 14-B (2)]

FORM OF SUMMONS IN A CASE WHERE RECOVERY OF POSSESSION OF PREMISES IS PRAYED FOR ON THE GROUND OF A BONA FIDE REQUIREMENT UNDER SUB- SECTION (1) OF SECTION 14-A.

To

(Name, description and place of residence of the tenant)

WHEREAS Shri.....has filed an application

(a copy of which is annexed) for your eviction from (here insert the particulars of the premises) on the ground specified in sub-section (1) of section 14-A;

You are hereby summoned to appear before the Controller within fifteen days of the service hereof and to obtain the leave of the Controller to contest the application for eviction on the ground aforesaid; in default whereof, the applicant will be entitled, at any time after the expiry of the said period of fifteen days, to obtain an order for your eviction from the said premises.

Leave to appear and contest the application may be obtained on an application to the Controller supported by an affidavit as is referred to in sub-section (5) of section 14-B.

Given under my hand and seal of this day of 19 .

Controller".

STATEMENT OF OBJECTS AND REASONS

In order to tackle the problem of shortage of Government residential accommodation to be provided to the Government employees at the places of their postings, it has been decided that the allotment of houses to the Government employees, who have been allotted Government accommodation at the places of their postings and who also own houses situated in that town or in its vicinity may be cancelled and the accommodation so allotted to them may be got vacated from them immediately. In the event they fail to vacate the Government accommodation allotted to them, penal rent at the market rate may be charged from them. The number of such Government employees is not very much. Such employees whose allotment of Government accommodation has been cancelled feel handicapped in delivering the quick possession of Government accommodation for the reasons that their own houses where they have to rehabilitate their families cannot be got vacated from the tenants immediately under the normal procedure and as such they have no other alternative than to pay the penal rent. In order to ameliorate the fate of such Government employees, it has been decided to make the provision for a summary procedure for getting such residential accommodation vacated for rehabilitating such Government employees and their families.

This Bill seeks to achieve the aforesaid object.

SIMLA:
The 23rd December, 1977.

DAULAT RAM CHAUHAN,
Minister-in-Charge.

FINANCIAL MEMORANDUM

No extra expenditure will be borne by the State Government for implementing the provisions of this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Simla-171004, the 23rd December, 1977

No. 1-66/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Nurses Registration Bill, 1977 (Bill No. 27 of 1977) after having been introduced in the Assembly on the 23rd December, 1977, is hereby published in the Gazette.

Bill No. 27 of 1977.

THE HIMACHAL PRADESH NURSES REGISTRATION BILL, 1977

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A BILL

to provide for the registration of nurses, health visitors, midwives, auxiliary nurse midwives and dais in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Nurses Registration Act, 1977.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

- (a) "auxiliary nurse midwife" means a person who has passed an examination prescribed in this behalf by the Council;
- (b) "bye-laws" means bye-laws made under section 22 or section 23;
- (c) "Council" means the Himachal Pradesh Nurses Registration Council established under section 3;
- (d) "dai" means any person, whether following a hereditary occupation or not, who ordinarily practises midwifery for gain and who has not passed any of the examinations in midwifery recognised by the Council;
- (e) "health visitor" means a person who has obtained health visitor's certificate from any health school, institution or examining body recognised in this behalf by the Council or one who has been registered under sub-section (2) of section 18;
- (f) "midwife" means any person who has obtained a certificate or diploma of midwifery from any institution or examining body recognised by the Council in this behalf or one who has been registered under sub-section (2) of section 18;
- (g) "nurse" means a person who holds a certificate in nursing from any institution recognised in this behalf by the Council or one who has been registered under sub-section (2) of section 18;
- (h) "nurse dai" means a trained dai who has passed the examination in nursing prescribed by the Punjab Nurses Registration Council or one who has been registered with the said Council and has

been taken over from the said Council in transferred territories merged in Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966;

31 of 1966

- (i) "register" means a register maintained under the Act;
- (j) "registered" means registered in accordance with the provisions of section 18;
- (k) "Registrar" means the Registrar appointed under section 15;
- (l) "registered medical practitioner" means a person who holds a qualification granted by an authority specified and notified under section 3 of Indian Medical Degrees Act, 1916 or specified in the Schedules to the Indian Medical Council Act, 1956 or specified in any other law for the time being in force in any State or who practises in any system of medicines and is registered in any State medical register by whatever name may be called;
- (m) "regulations" means regulations made under section 17;
- (n) "rules" means rules made under section 33;
- (o) "trained dai" means a person who has been granted a training certificate under the bye-laws made by the Council or one who has been registered under sub-section (2) of section 18;
- (p) "un-registered" means not registered in accordance with the provisions of section 18.

7 of 1916
102 of 1956

CHAPTER II

CONSTITUTION OF COUNCIL, APPOINTMENT OF OFFICE BEARERS AND THE MAKING OF REGULATIONS

3. (1) There shall be established and constituted for the purpose of carrying out the provisions of this Act, a Council to be known as "The Himachal Pradesh Nurses Registration Council".

(2) The Council shall consist of the following members, namely:—

- (a) the Director of Health Services, Himachal Pradesh;
- (b) eight members to be appointed by the State Government from amongst the persons specified in the Schedule, one of whom shall be Nursing Superintendent of the hospitals training candidates for any of the examinations conducted by the Council;
- (c) two registered nurses to be elected by the nurses registered under the Act;
- (d) one registered senior-most health visitor;
- (e) one registered midwife to be elected by the midwives registered under the Act;

Provided that, should the registered nurses or the registered health visitors or the registered midwives fail, after the occurrence of a vacancy or vacancies, to elect a member or members, within such period as the State Government may by rules prescribe, the State Government may fill such vacancy or vacancies by the appointment of a registered nurse, registered health visitor, or registered midwife, as the case may be:

Provided further that the State Government may appoint to the first Council members as referred to in clauses (b) to (d) out of the persons who are eligible for registration in the respective registers and such persons shall

Constitu-
tion of
Himachal
Pradesh
Nurses Re-
gistration
Council.

hold office for such period as the State Government may, by notification in the Official Gazette, specify.

(3) The Council shall be a body corporate with the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(4) The Director of Health Services Himachal Pradesh, shall be the *ex-officio* President of the Council and the Vice-President shall be elected by name from amongst its members at the first meeting thereof.

(5) Every election or appointment of a member of the Council shall be notified by the State Government in the Official Gazette.

(6) Until the Council is established and constituted in accordance with the provisions of the preceding sub-sections, the State Government may constitute a Council consisting of eight members including the Director of Health Services Himachal Pradesh, to be appointed by the State Government and the Council so constituted shall, as from the commencement of this Act and for a period not exceeding one year from such commencement be deemed to be the Council established and constituted for the purpose of carrying out all the provisions of this Act and the provisions of sub-sections (3) and (4) shall apply to such a Council.

4. Election of members of the Council under sub-section (2) of section 3 shall be held at such time and place and in such manner as may be prescribed by rules or regulations and where any dispute arises regarding any such election, it shall be referred to the State Government whose decision shall be final.

Election of members.

5. (1) Except as otherwise provided in section 3, and in this section, the term of office of a member of the Council, other than a member appointed by virtue of his office, shall be five years and shall commence from the date on which the appointment or election of such member, as the case may be, is notified in the Official Gazette by the State Government.

Term of office of members.

(2) A member, other than a member appointed by virtue of office, when appointed or elected in place of a member who has for any reason vacated his office earlier than his term, shall hold office for the remaining period of the term of the member in whose place he has been appointed or elected.

(3) Notwithstanding anything contained in this Act, an outgoing member shall, unless State Government otherwise directs, continue in office until the election or appointment of his successor is notified.

(4) An outgoing member shall, if he is otherwise qualified, be eligible for being re-elected or re-appointed.

(5) The term of office of a member of the Council appointed by virtue of his office shall continue so long as he holds the office by virtue of which he is such a member.

6. A member of the Council shall be deemed to have vacated his seat,—
(a) if he submits his resignation in writing to the President of the Council; or

Vacancies

- (b) if he has, in the opinion of the Council without sufficient cause, been absent from three consecutive meetings of the Council; or
- (c) if he has been absent out of India for more than one year continuously; or
- (d) if in the case of a member under clause (b), (c) or (d) of sub-section (2) of section 3, he ceases to be a registered nurse, a registered health visitor or a registered auxiliary nurse midwife or a registered midwife, as the case may be; or
- (e) if he refuses to act or becomes, in the opinion of the Council, incapable of acting or has been declared a bankrupt or an insolvent or has been convicted of any such offence or subjected by a criminal court to any such order as implies, in the opinion of the Council a defect of character, which makes him unfit to be a member.

Removal of
a member.

7. Notwithstanding anything contained in this Act, the State Government may, at any time for any reason which it may deem to affect the public interest or on a resolution passed by a majority of two-thirds of the members of the Council, by notification in the Official Gazette, direct that the seat of any specified member, whether elected or appointed, shall be vacated on a date specified in the notification and such seat shall thereupon be vacated accordingly.

Casual va-
cancies how
to be filled.

8. A casual vacancy in the Council shall be filled by fresh election or appointment, as the case may be, depending upon the specific category to which such vacancy belongs.

Vacancies
etc. not to
invalidate
proceedings
of the
Council.

9. No act done, or proceedings taken, under this Act by the Council shall be invalid merely on the ground,—

- (a) of any vacancy or defect in the constitution of the Council; or
- (b) of any defect or irregularity in the election or appointment of a person acting as a member thereof; or
- (c) of any defect or irregularity in such act or proceedings not affecting the merits of the case.

Disqualifi-
cations.

10. No person shall be eligible for election or appointment as a member of the Council,—

- (a) who is a minor or an undischarged insolvent; or
- (b) who has been adjudicated by a competent court to be of unsound mind; or
- (c) who has been sentenced by a criminal court to imprisonment for an offence involving moral turpitude.

Term of
office of
Vice Presi-
dent.

11. (1) The term of office of Vice-President of the Council shall be five years, but shall not extend beyond the expiry of his term as a member of the Council.

(2) A Vice-President may resign his office by notice in writing to the President and on his resignation being accepted by the Council, the office shall become vacant.

(3) When the office of the Vice-President becomes vacant another member shall be elected as Vice-President for the remainder of the term of the office of the Vice-President in whose place he is elected or for the remainder of his term of office as a member, whichever is less.

12. The Council shall meet at such time and place and every meeting of the Council shall be summoned in such manner as may be provided by regulations:

Time and place of meeting of the Council.

Provided that, until such regulations are made, it shall be lawful for the President to summon a meeting of the Council at such time and place as he may deem expedient by a letter addressed to each member.

13. Any number or proportion of the members of the Council as may, from time to time, be fixed by regulations but not less than five, shall form a quorum at a meeting of the Council :

Quorum

Provided that, if at any meeting of the Council, a quorum is not present the President shall adjourn the meeting and the business which would have been brought before such meeting shall be brought before and transacted at the adjourned meeting whether there may be a quorum present or not.

14. (1) The President of the Council, or in his absence the Vice-President, or in the absence of both a person elected by the Council from amongst themselves, shall preside at a meeting of the Council .

Proceedings at the meetings of the Council.

(2) All questions at a meeting of the Council shall be decided by the votes of a majority of the members present and voting:

Provided that, in case of equality of votes, the President, Vice-President or the person presiding, as the case may be, shall have a second or casting vote.

15. (1) Subject to such rules as the State Government may make in this behalf, the Council shall with the previous approval of the State Government, appoint a Registrar who shall also act as a treasurer, unless the Council appoints another person as treasurer, and shall receive such salary and allowances and be subject to such conditions of service as may be prescribed:

Appointment of Registrar and other staff.

Provided that until a Registrar is so appointed, a person appointed by the State Government shall, as from the commencement of this Act, be deemed to be Registrar who shall be entitled to such salary and allowances and shall be subject to such conditions of service as may be determined by the State Government.

(2) The Council may appoint such other employees as may be necessary for carrying out the purposes of this Act and such employees shall receive such salaries and allowances and be subject to such conditions of service as may be prescribed.

(3) All employees of the Council, including the Registrar, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

5 of 1860

16. (1) Subject to the provisions of this Act and rules made thereunder and subject to any general or special orders of the Council, it shall be the duty of the Registrar to maintain the registers and to act as Secretary to the Council.

Duties of Registrar.

(2) The Registrar shall keep the register in accordance with the provisions of this Act and any rules or regulations made thereunder and shall, from time to time, make all necessary alteration in the names and addresses entered in the registers of such nurses, health visitors, midwives, nurse dais and auxiliary nurse midwives, trained dais or dais and remove the name of any person who is dead.

(3) To enable the Registrar to perform the duties imposed upon him by sub-section (2), he may send through post a registered letter to any person registered as a nurse, health visitor, midwife, nurse dai, auxiliary nurse midwife or trained dai or dai addressed according to his/her registered address for the purposes of enquiring whether he/she has ceased to practise or whether his/her residence or address has changed and if no answer to any such letter is received within a period of six months from its despatch, the Registrar may remove the name of such person from the concerned register :

Provided that, any name removed, under this section, may, on a representation made in this behalf, be re-entered in the register, subject to such conditions and payment of such fees as may be prescribed in the direction by the Council or the committee constituted under section 19 if an appeal was preferred against the order of the Council.

(4) An entry in the register which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made shall be removed or corrected in pursuance of a resolution of the Council.

Power to
make regu-
lations.

17. (1) The Council may make regulations consistent with this Act and with the rules made thereunder to provide for all or any of the following matters, namely:—

- (a) the time and place of its meetings;
- (b) the manner in which notices of a meeting shall be given;
- (c) the conduct of business at a meeting, the record of the proceedings thereof and the adjournment of meetings;
- (d) the quorum necessary for the transaction of business at a meeting;
- (e) the appointment and constitution of committee for any purpose relating to any matter with which the Council is empowered to deal and the co-operation of persons specially qualified to advise on any particular matter;
- (f) the payment of fees and travelling allowances to members attending a meeting of the Council;
- (g) the custody of the common seal and the purposes for which it shall be used;
- (h) the persons by whom receipts shall be granted on behalf of the Council for moneys received under this Act; and
- (i) the appointment, duties, executive powers, leave, suspension and removal of the officers and servants and the payment of salaries and allowances to such persons.

(2) No regulation made under the provisions of sub-section (1) of this section shall take effect until it has been confirmed by the State Government, and published in the Official Gazette.

CHAPTER III

REGISTRATION OF NURSES, HEALTH VISITORS, MIDWIVES, NURSE DAIS, AUXILIARY NURSE MIDWIVES, TRAINED DAIS AND DAIS

18. (1) Every person who complies with such conditions and restrictions as may be prescribed by the Council and,—

- (a) has undergone the necessary course of training or passed the examination, if any, prescribed for nurses, health visitors, midwives, auxiliary nurse midwives, nurse dais, trained dais and dais; or
- (b) is registered as a nurse or health visitor or midwife or auxiliary nurse midwife by any association which is recognised by the Council; or
- (c) is able to satisfy the Council that he/she has anywhere in India undergone a course of training or passed an examination similar to the course of training and examination referred to in clause (a) and recognised by the Council; or
- (d) is already employed or practising in Himachal Pradesh as a dai or doing the same work as a nurse, health visitor, midwife, auxiliary nurse midwife, nurse dai, trained dai or dai at the commencement of this Act;

Registration of nurses, health visitors, midwives, auxiliary nurse midwives, nurse dais, trained dais and dais.

may apply to the Registrar to have his/her name registered:

Provided that an application from a person referred to in clause (b) shall not be entertained unless it is received within three years from the commencement of the Act.

(2) (a) If the Registrar is satisfied that any nurse, health visitor, midwife, auxiliary nurse midwife, nurse dai, trained dai or dai applying under clause (a) or clause (b) of sub-section (1) is entitled to be registered, he shall, on payment of such fees as may be prescribed, enter the name of such nurse, health visitor, midwife, auxiliary nurse midwife, nurse dai, trained dai or dai in the prescribed register.

(b) If the Registrar is satisfied that any person applying under clause (c) or clause (d) of sub-section (1) is entitled to be registered as a nurse, health visitor, midwife, auxiliary nurse midwife, nurse dai, trained dai or dai, as the case may be, he shall lay the application before the Council with a recommendation that he be permitted to enter the name of such person in the prescribed register and shall not make any entry in the prescribed register in respect of such person until the entry is permitted by the Council to be made:

Provided that,—

(i) the Registrar on receiving an application under clause (a) or clause (b) of sub-section (1) from any person, in respect of whom he considers that the Council may wish to exercise its powers of refusal under clause (ii) may refer the said application to the Council or any committee referred to in section 19 and shall not make any entry in the register in respect of such person until the entry is permitted by the Council, to be made;

(ii) the Council may refuse to permit the registration of any person who has been convicted of any such offence as implies, in the opinion of the

Council, any defect of character such as would render him unfit for duty or, who after an enquiry at which an opportunity has been given to such person to be heard in person or by a counsel, has been held by the Council by the majority of at least two-thirds of the members present and voting at a meeting of the Council, guilty of any professional misconduct or infamous conduct or not to have been possessing satisfactory professional qualification; and

(iii) the Council may at any time issue a warning to, or direct the removal of the name of a registered person for any of the reasons for which it could refuse to permit the registration of such person after an enquiry at which an opportunity has been given to such person to be heard in person or by a counsel :

Provided further that an appeal may be preferred to the committee constituted under section 19 from an order of the Council if such appeal is made within one month or such period as may be extended on sufficient cause shown for not preferring the appeal within time from the date of receipt of registered notice intimating that the Council has refused to permit the registration or has removed the name of such person.

(3) The Council may direct that the name of any person against whom an order has been passed under the proviso to sub-section (2) shall be entered after having satisfied itself that due to lapse of time or otherwise the disability mentioned in the said sub-section has ceased to have any force.

(4) If the Registrar is not satisfied that a person who has applied under sub-section (1) is entitled to be registered, he shall reject the application; provided that appeal shall lie to the Council from such an order of rejection by the Registrar if such appeal is preferred within one month from the date of receipt of such order by the applicant.

(5) For the purpose of an enquiry under the first proviso to sub-section (2) or of an appeal under sub-section (4), the Council shall be deemed to be a court within the meaning of the Indian Evidence Act, 1872 and shall exercise all the powers of a Commissioner under the Public Servant's (Inquiries) Act, 1850, and such enquiry or appeal shall be conducted, so far as may be, in accordance with the provisions of section 5 and sections 8 to 20 of the Public Servant's (Inquiries) Act, 1850; provided that nothing contained in any of the said Acts, shall prevent the Council from holding an enquiry or hearing of any appeal in camera.

1 of 1872

37 of 1850

37 of 1850

Delegation of powers to the committee of the Council.

19. The Council may direct that any enquiry or appeal under section 18 to be conducted or heard by it shall be conducted or heard by a committee of the Council composed of such members of the Council as it may direct.

Registers to be maintained.

20. The Registrar shall maintain the following registers:—

- (a) a register showing the name and address of each registered nurse in Himachal Pradesh;
- (b) a register showing the name and address of each registered health visitor in Himachal Pradesh;
- (c) a register showing the name and address of each registered midwife in Himachal Pradesh;

- (d) a register showing the name and address of each registered auxiliary nurse midwife in Himachal Pradesh;
- (e) a register showing the name and address of each registered nurse dai in Himachal Pradesh ; and
- (f) a register showing the name and address of each registered trained dai or dai in Himachal Pradesh.

21. (1) The Registrar shall at least in every five years, on or before a date to be fixed in this behalf by the Council, cause to be printed and published correct list of names for the time being entered in the registers setting-forth,—

- (a) the names entered in the respective registers arranged in alphabetical order;
- (b) the registered address of each person whose name is entered in the register; and
- (c) the registered qualifications of each person and the date on which such qualification was certified.

Annual list of nurses, health visitors, midwives, auxiliary nurse midwives, nurse dais and dais.

(2) Every court shall presume that any person whose name is entered in the latest of such lists is duly registered under this Act, and that any person whose name is not so entered is not registered under this Act:

Provided that, in the case of any person whose name does not appear in any of such lists, a certified copy signed by the Registrar of the entry of the name of such person in the register shall be conclusive evidence that such person is registered under this Act:

Provided further that a certificate purporting to be signed by the Registrar stating that the name of a person has been removed from such register and specifying the date of such removal shall be conclusive proof of the fact and date of such removal.

22. (1) Any local authority may make bye-laws prohibiting unregistered person from practising as a nurse, health visitor, midwife, auxiliary nurse midwife, nurse dai, trained dai or dai within the area subject to its authority and may in such bye-laws provide that any person practising in contravention of such bye-laws or every person committing or abetting the commitment of a breach of any such bye-laws shall on conviction by a magistrate of the first class be liable to a fine not exceeding fifty rupees for first offence and to a fine not exceeding two hundred and fifty rupees for the second and for each subsequent offence.

Power to prohibit unregistered person from practising.

(2) If any local authority fails to make bye-laws under sub-section (1) within six months from the date of commencement of this Act, the State Government may, by notification in the Official Gazette, prohibit unregistered persons from practising as a nurse, health visitor, midwife, auxiliary nurse midwife, nurse dai, trained dai or dai within the area, subject to such local authority and any unregistered person practising in contravention of such notification, shall be liable, on conviction by a magistrate of the first class, to a fine not exceeding fifty rupees for the first offence and to a fine not exceeding two hundred and fifty rupees for the second and for each subsequent offence.

(3) Notwithstanding anything to the contrary in any enactment, rule, bye-law or other provisions of law for the time being in force, no person other

than a registered nurse, a registered health visitor, a registered midwife, a registered auxiliary nurse midwife, a registered nurse dai, a registered trained dai or dai shall be competent to hold any appointment or be employed as such in any hospital, asylum, infirmary, dispensary, nursing home, maternity home, health centre or other such institution, private or public, whether supported by voluntary contribution or not.

Power to make bye-laws.

23. The Council may, after previous publication, make bye-laws,—

- (a) to prescribe the course of training of, and qualification for, the registration of nurses, health visitors, midwives, auxiliary nurse midwives, nurse dais, trained dais, or dais and to provide for the recognition of institution competent to give such training;
- (b) to regulate the issue of certificates, the maintenance of registers and the conditions of admission of names of persons to such registers and to prescribe the form of application for such admission and uniform or badge to be worn by registered nurses, registered health visitors, registered midwives, registered auxiliary nurse midwives, registered trained dais or dais, while on duty;
- (c) to prescribe the fees for registration and the re-entry of name removed from registers;
- (d) to regulate the publication of lists of registered nurses, registered health visitors, registered midwives, registered auxiliary nurse midwives, registered nurse dais, registered trained dais or dais;
- (e) to regulate the conduct of and prescribe fees for examination of nurses, health visitors, midwives, auxiliary nurse midwives, nurse dais, trained dais or dais;
- (f) to confer, grant or issue diplomas, licences, certificates or other documents stating or implying that the holder, grantee or recipient thereof is qualified to practise or otherwise work as nurse, health visitor, midwife, auxiliary nurse midwife, nurse dai, trained dai or dai;
- (g) to prescribe fees for the affiliation of institutions recognised as training schools for nurses, health visitors, midwives, auxiliary nurse midwives, nurse dais, trained dais or dais ;
- (h) to prescribe the scale of fees, remuneration and travelling allowance to examiners, supervisors, invigilators and other persons appointed by the Council for the conduct of examinations;
- (i) to prescribe price of publications of the Council; and
- (j) to regulate the conduct of registered persons.

Confirmation and publication of bye-laws.

24. (1) No bye-laws made under section 22 or section 23 shall come into force until it has been confirmed by the State Government and published in the Official Gazette.

(2) The State Government may cancel its confirmation of any such bye-law and thereupon the bye-law shall cease to have any effect.

No suits in respect of acts done under this Act.

25. No action taken, in the exercise of any power conferred by this Act, by the State Government or the Council or the committee constituted by the Council or the Registrar shall be questioned in any civil court.

26. Nothing in this Act shall apply to registered medical practitioners.

Exemption of registered medical practitioners from provisions of this Act.

27. Copies of any order passed by the State Government, the Council, the committee constituted by the Council or the Registrar or of any entry in the register maintained under this Act shall be supplied on payment of such fees as may be prescribed.

Fees for the issue of copies of orders or entries in the register. Application of fees received by the Council.

28. All moneys received by the Council as fees under this Act shall be applied for the purposes of this Act in the prescribed manner.

29. Any person who,—

- (a) dishonestly makes use of any certificate of registration issued under the provisions of this Act to him or to any other person ;or
- (b) procures or attempts to procure registration under the provisions of this Act by making or producing or causing to be made or produced any false or fraudulent declaration, certificate, or representation, whether in writing or otherwise; or
- (c) wilfully makes or causes to be made any falsification in any matter relating to the registers maintained or the certificates issued under the provisions of this Act ;

Penalty for dishonest use of certificate etc.

shall, on conviction by a magistrate of the first class, be punishable with fine which may extend to three hundred rupees.

30. Any person who, not being a registered nurse, or a registered health visitor, or a registered midwife, or a registered auxiliary nurse midwife, or a registered nurse dai, or a registered trained dai or a dai, as the case may be, assumes or uses any name, title, addition, descriptions or a sign-board implying that such person is registered or in any manner regulates the conduct of examinations or confers or grants diplomas or certificates, except as provided in this Act or the rules or bye-laws made thereunder, shall, on conviction by a magistrate of the first class, be liable to a fine not exceeding two hundred and fifty rupees in the case of first offence and for a second or any subsequent offence to a fine not exceeding five hundred rupees or imprisonment of either description for six months or both.

Penalty for unlawful assumption of title of registered nurse, health visitor, auxiliary nurse midwife, nurse dai, trained dai or dai.

31. (1) No court shall take cognizance of any offence punishable under this Act except on a complaint made with the previous sanction of the Council.

Bar to prosecutions under the Act.

(2) A complaint under this section shall be lodged by the Registrar in the court of competent jurisdiction within the district in which the office of the Council is located.

32. The State Government may, from time to time, by notification in the Official Gazette, add to, amend, vary or rescind an entry in the Schedule.

Power to amend the Schedule.

33. (1) The State Government may, after previous publication, make rules to carry out the purposes of this Act.

Power of State Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, the State Government may make rules,—

- (a) to regulate the elections under section 3;
- (b) to prescribe the form of registers to be maintained under section 20;
- (c) to regulate and restrict within due limits the practice of registered nurses, registered health visitors, registered midwives, registered auxiliary nurse midwives, registered nurse dais or registered trained dais or dais;
- (d) to regulate the procedure to be followed by the Council,—
 - (i) in making re-entry in the registers of the name of person removed from such register and in withdrawing any order of suspension of practice, passed on a registered nurse, registered health visitor, registered midwife, registered auxiliary nurse midwife, registered nurse dai, registered trained dai or registered dai; and
 - (ii) in disposing of appeals from the decision of the Registrar made under section 18;
- (e) to regulate the application of fees levied under this Act; and other moneys received by the Council for the purposes of this Act; and
- (f) to prescribe fees for obtaining copies of the orders passed by the State Government, or the Council or the Registrar or the committee constituted by the Council.

(3) Every rule made under this Act, shall be laid, as soon as may be, after it is made before, the Legislative Assembly of Himachal Pradesh, while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeal and savings.

34. (1) The Punjab Nurses Registration Act, 1932, as in force in the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act 1966, is hereby repealed:

1 of 1932

31 of 1966

Provided that such repeal shall not effect,—

- (a) the previous operation of the Act so repealed or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the enactment so repealed; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the enactment so repealed; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Subject to the proviso to sub-section (1), anything done or any action taken (including any appointment or delegation made, notification, order, instruction or direction issued, rule or regulation framed, or form prescribed), in so far as it is not inconsistent with this Act, be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

THE SCHEDULE

[See clause (b) of sub-section (2) of section 3]

1. Deputy Director of Health Services, Himachal Pradesh.
2. Director Principal, Himachal Pradesh Medical College, Simla.
3. Deputy Assistant Director of Health Services (Nursing), Himachal Pradesh.
4. Medical Superintendent, Himachal Pradesh State Hospital, Simla.
5. Matron trained in nursing administration.
6. Senior Nursing Tutor, Himachal Pradesh State Hospital, Simla.
7. Nursing Superintendent, Lady Reading Hospital, Simla.
8. Superintendent Incharge of Health Visitors' Training School.
9. Senior-most Chief Medical Officer in Himachal Pradesh.
10. Honorary Secretary Trained Nurses Association, Himachal Pradesh Branch.
11. Persons having experience in nursing education and administration.

STATEMENT OF OBJECTS AND REASONS

At present there is no legislation for the registration and better training of nurses, health visitors, midwives, auxiliary nurse midwives, nurse dais, trained dais and dais in the areas comprised in Himachal Pradesh immediately before the 1st November, 1966, whereas, the Punjab Nurses Registration Act, 1932 is in force in the territories transferred to Himachal Pradesh under section 5 the Punjab Re-organisation Act, 1966. With a view to bringing about uniformity in such law it is necessary to have one unified law on the subject for the whole of Himachal Pradesh.

This Bill seeks to achieve the aforesaid object.

KISHORI LAL,
Minister-in-charge.

SIMLA:

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FINANCIAL MEMORANDUM

No expenditure out of the Government revenue is involved for the implementation of the provisions made in the Bill. The Council when established will incur expenditure from its own funds.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 17 vests in the Council powers to make regulations subject to their confirmation by the State Government. Clauses 22 and 23 empower the local authorities and the Council to make bye-laws, after previous publication and their confirmation by the State Government, in respect of the matters mentioned therein. Clause 33 empowers the State Government to make rules to carry out the purposes of the Act in respect of the matters enumerated therein. The proposed delegation is normal in character and is essential for the effective implementation of the provisions of the Bill.

Simla-171004, the 27th December, 1977

No. 1-63/77-VS.—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business, Himachal Pradesh Legislative Assembly, the Himachal Pradesh Appropriation Bill, 1977 (Bill No. 24 of 1977), after having been introduced in the Assembly on the 27th December, 1977, is hereby published in the Gazette.

V. P. BHATNAGAR,
Secretary.

Bill No. 24 of 1977

THE HIMACHAL PRADESH APPROPRIATION BILL, 1977

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Himachal Pradesh for the services of the year ending on the 31st day of March, 1978.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Himachal Pradesh Appropriation Act, 1977. Short title

2. From and out of the Consolidated Fund of the State of Himachal Pradesh, there may be paid and applied further sums not exceeding those specified in column (3) of the Schedule amounting in the aggregate to the sum of thirteen crores, forty-two lakhs, twenty-one thousand and six hundred rupees towards defraying the charges which will come in course of payment during the financial year 1977-78 in respect of the services specified in column (2) of the Schedule.

Issue of a further sum of Rs. 13,42,21,600 out of the Consolidated Fund of the State of Himachal Pradesh for the year 1977-78.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Himachal Pradesh by this Act shall be further appropriated for the services and purposes expressed in the Schedule in relation to the period mentioned in section 2 of this Act,

Appropriation.

THE SCHEDULE

(See sections 2 and 3)

No. of Vote	Service and purpose	Sums not exceeding		Total
		Voted by the Legis- lative As- sembly	Charged on the Con- solidated Fund	
1	2	3	4	
		Rs.	Rs.	Rs.
1	Vidhan Sabha and Elections ..	15,00,000	—	15,00,000
2	Governor and Council of Ministers ..	—	1,11,000	1,11,000
3	Administration of Justice ..	—	2,160	2,160
8	Education, Art and Cultural Affairs and Scientific Research ..	1,000	—	1,000
10	Public Works ..	25,000	—	25,000
11	Agriculture ..	—	30,900	30,900
17	Roads & Bridges ..	21,13,000	—	21,13,000
18	Supplies, Industries and Minerals ..	75,51,000	—	75,51,000
19	Social Security, Welfare and Jails ..	25,000	—	25,000
20	Public Health, Sanitation and Water Supply ..	1,88,60,000	—	1,88,60,000
21	Community Development ..	35,00,000	—	35,00,000
22	Co-operation ..	5,00,000	—	5,00,000
32	Other Administrative Services ..	2,540	—	2,540
33	Finance ..	—	10,00,00,000	10,00,00,000
TOTAL ..		3,40,77,540	10,01,44,060	13,42,21,600

STATEMENT OF OBJECTS AND REASONS

This Bill is introduced in pursuance of Article 204 (1) of the Constitution of India to provide for the appropriation out of the Consolidated Fund of the State of Himachal Pradesh of the moneys further required to meet the expenditure charged on the Consolidated Fund and other expenditure as voted by the Legislative Assembly in respect of the estimated expenditure of the Government of Himachal Pradesh for the financial year 1977-78.

SHANTA KUMAR,
Chief Minister.

SIMLA:

The 27th December, 1977.

RECOMMENDATION OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Finance Department File No. Fin. 1-C(1)-141/77]

The Governor, having been informed of the subject-matter of the proposed Himachal Pradesh Appropriation Bill, 1977 recommends under Article 207 of the Constitution, the introduction in and consideration by the Legislative Assembly of the said Bill.

